



BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2018-0025]

Decision to Authorize the Importation of Fresh Pepper Fruit From Colombia Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation of fresh pepper fruit from Colombia into the continental United States. Based on the findings of a pest risk analysis, which we made available to the public for review and comment, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh pepper fruit from Colombia.

DATES: The articles covered by this notice may be authorized for importation after [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations, and Manuals PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2352.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in "Subpart L—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under the process, APHIS proposes to authorize the importation of a fruit or vegetable into the United States if, based on the findings of a pest risk analysis, we determine that the measures can mitigate the plant pest risk associated with the importation of that fruit or vegetable. APHIS then publishes a notice in the *Federal Register* announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of that fruit or vegetable.

In accordance with that process, we published a notice<sup>1</sup> in the *Federal Register* (84 FR 20322-20323, Docket No. APHIS-2018-0025) on May 9, 2019, in which we announced the availability, for review and comment, of a pest risk assessment (PRA) that evaluated the risks associated with the importation of fresh pepper fruit (*Capsicum* spp., specifically the domesticated species *Capsicum annuum* L., *C. baccatum* L., *C. chinense* Jacq., *C. frutescens* L., and *C. pubescens* Ruiz & Pav.) from Colombia and a risk management document (RMD) prepared to identify phytosanitary measures that could be applied to the commodity to mitigate the pest risk.

---

<sup>1</sup> To view the notice, PRA, risk management document, economic evaluation assessment, and the comments that we received, go to <http://www.regulations.gov>, and enter APHIS-2018-0025 in the Search field.

We solicited comments concerning our proposal for 60 days ending July 8, 2019. We received two comments by that date. They were from a State department of agriculture and a private citizen. They are discussed below.

One commenter voiced concerns regarding the mitigation methods proposed for three insect species, *Anastrepha fraterculus*, *Ceratitis capitata*, and *Neoleucinodes elegantalis*, that the PRA said could follow the pathway on peppers from Colombia. While our RMD stated that *N. elegantalis* leaves easily identifiable bore hole, the commenter believes the *N. elegantalis* species of fruit fly may leave inconspicuous holes in the fruit's leaves despite the determination that the holes are easily identifiable. In regards to the *A. fraterculus* and *C. capitata* species, the commenter believed, as internal fruit feeders, the pests could potentially infest a greenhouse and remain undetected.

APHIS has determined the proposed risk mitigation procedures in the RMD and notice are sufficient for the aforementioned pests and will remove the pests from the pathway of Colombia peppers. We consider the mitigation of a pest-exclusionary structure to be an absolute barrier to all of the pests in conjunction with safeguards such as: Monthly visits and inspections to the production places, pest-exclusionary greenhouses and trapping programs at production places, and halting production if a greenhouse is infested. Furthermore, APHIS prohibits a greenhouse from exporting, if any fruit fly is detected, until the risk is mitigated (which we determine). Lastly, APHIS agrees with the commenter that internally feeding insects, such as *Neolucinodes elegantalis*, may leave inconspicuous holes or damage; however, it is unlikely that *Neolucinodes elegantalis* populations will become established inside of pest-exclusionary structures. In the unlikely event they are, U.S. Customs and Border Protection inspections at the port of entry coupled with possible emergence during transit provide additional safeguards. Upon exiting a secure greenhouse, peppers must be safeguarded by intact, insect-proof mesh screens or plastic tarpaulins in transit to the packinghouse, while awaiting packing, and when

they arrive into the continental United States; the consignment will be denied entry if those measures are not followed.

The second comment was generally favorable toward our proposed decision but asked if peppers from the Dominican Republic could be authorized importation into the United States, as well, subject to a systems approach. However, APHIS already has authorized the importation of peppers from the Dominican Republic. The conditions for their importation are found in APHIS' Fruits and Vegetables Import Requirements (FAVIR) database at [https://epermits.aphis.usda.gov/manual/index.cfm?REGION\\_ID=214&NEW=1&ACTION=countrySummCommPI](https://epermits.aphis.usda.gov/manual/index.cfm?REGION_ID=214&NEW=1&ACTION=countrySummCommPI).

Lastly, in the initial notice, we did not specify that the peppers must be commercial consignments only. However, Colombia's request was for commercially produced and shipped peppers, as reflected in pages 2 to 4 of the PRA; accordingly, we will only issue permits for commercial consignments.

Therefore, in accordance with the regulations in § 319.56-4(c)(3)(iii), we are announcing our decision to authorize the importation of fresh pepper fruit from Colombia into the continental United States subject to the following phytosanitary measures, which will be listed in FAVIR, available at <https://epermits.aphis.usda.gov/manual>:

- The peppers must be grown in approved places of production registered with the national plant protection organization (NPPO) of Colombia.
- Pepper places of production must consist of pest-exclusionary structures.
- The places of production must contain traps for the detection of Mediterranean fruit fly (*C. capitata* (Wiedemann)) and South American fruit fly (*A. fraterculus* (Wiedemann)) both within and around the structures.
- The places of production must be inspected prior to harvest for *N. elegantalis* (Guenée), a fruit boring moth; *Copitarsia decolora* (Guenée), a moth; and *Puccinia pampeana* Speg., a pathogenic fungus that causes pepper and green pepper rust.

- If any of these pests, or other quarantine pests, are found to be generally infesting or infecting the places of production, the NPPO of Colombia must immediately prohibit that production site from exporting peppers to the continental United States and notify APHIS of the action. The prohibition will remain in effect until the Colombian NPPO and APHIS agree that the risk has been mitigated.
- The Colombian NPPO must maintain records of trap placement, checking of traps, and any quarantine pest captures. The Colombian NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS review.
- The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse.
- The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the continental United States. These safeguards must remain intact until arrival in the continental United States or the consignment will be denied entry into the continental United States.
- During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse may only accept peppers from registered approved places of production.
- Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by the Colombian NPPO stating that the fruit in the consignment has been produced in accordance with 7 CFR 319.56-4. Consignments must be packed in cartons that are labeled with the identity of the place of production.
- Consignments of fresh pepper fruit from Colombia are subject to inspection at the port of entry in the continental United States.

- Consignments are not for importation or distribution into or within Hawaii, Puerto Rico, or any U.S. Territory.
- Commercial consignments only.

In addition to these specific measures, fresh peppers from Colombia will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this notice are covered under the Office of Management and Budget control number 0579-0049. The estimated annual burden on respondents is 644.10 hours, which will be added to 0579-0049 in the next quarterly update.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851-2483.

#### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of March 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021-06169 Filed: 3/24/2021 8:45 am; Publication Date: 3/25/2021]